

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
AT&T Inc. and Atlantic Tele-Network, Inc. Seek)	
FCC Consent to the Transfer of Control and)	WT Docket No. 13-54
Assignment of Licenses, Spectrum Leasing)	
Authorizations, and an International Section 214)	
Authorization)	

**JOINT OPPOSITION OF AT&T INC. AND ATLANTIC TELE-NETWORK, INC. TO
PETITIONS TO DENY AND REPLY TO COMMENT**

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EXECUTIVE SUMMARY

AT&T's acquisition of Allied's assets clearly is in the public interest. The few opponents of this transaction have not challenged the benefits Applicants have shown they will deliver to Allied and AT&T customers alike. Among other improvements, Allied's primarily rural customers will gain access to AT&T's nationwide 4G network and other services, devices, and features. AT&T's customers will benefit from the expanded network and broader 4G coverage in Allied's largely rural footprint. The transaction's substantial synergies also will benefit consumers.

Rather than challenge these transaction-specific benefits, opponents offer irrelevant or unsubstantiated claims of competitive harm. Two of the three parties just rehash lists of alleged flaws in the overall mobile wireless marketplace without bothering to tie them – or their proposed remedies – to this particular transaction. The one party attempting to address competition in Allied's footprint, Blue Wireless, mistakes key facts.

Contrary to opponents' claims, the transaction will not harm competition. All four national carriers are present in virtually all CMAs where Allied operates, other carriers are present in many of these areas, and all of these carriers will continue to compete post-transaction. Moreover, Allied's competitive significance has waned since it acquired the divested Alltel assets, and the substantial challenges it faces will continue. In fact, given AT&T's modest presence in Allied's territory, AT&T's acquisition of Allied's operations will *enhance* competition by allowing it to compete more effectively with other carriers in these areas.

In short, the unchallenged benefits and clear lack of competitive harms resulting from this transaction compel the conclusion that the Commission should dismiss or deny opponents' petitions and grant the Applications quickly and without conditions.

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I. INTRODUCTION

Applicants¹ demonstrated in their Public Interest Statement² that customers of both Allied and AT&T will benefit from the proposed transaction and that competition will continue to be strong. The few parties choosing to participate in this proceeding (“Petitioners”) have not meaningfully challenged these demonstrations.³ They present no facts showing transaction-specific harms and, therefore, no basis for the purported remedies they seek. Accordingly, the Commission should deny the Petitioners’ requests and grant the Applications without conditions.

¹ AT&T Inc. (collectively with its subsidiaries and affiliates, “AT&T”), Atlantic Tele-Network, Inc. (“ATN”), and ATN’s subsidiary Allied Wireless Communications Corporation (collectively with its affiliates, “Allied”).

² Description of the Transaction, Public Interest Showing and Related Demonstrations (filed Feb. 5, 2013) (“Public Interest Statement”).

³ See generally Petition to Deny of Buffalo-Lake Erie Wireless Systems Co., L.L.C. (filed Apr. 4, 2013) (“Blue Wireless Petition”); Petition to Deny of Public Knowledge and the Writers Guild of America, West (filed Apr. 4, 2013) (“Public Knowledge Petition”); Comments of the Rural Telecommunications Group, Inc. (filed Apr. 4, 2013) (“RTG Comments”).

II. THE TRANSACTION WILL SERVE THE PUBLIC INTEREST

In the Public Interest Statement, Applicants showed that the proposed transaction will benefit consumers, most of whom live in rural communities, in several ways.⁴

First, Allied customers, who currently receive 3G EV-DO services, will gain access to 4G and other services, equipment and features, including AT&T's nationwide 4G network.⁵ Allied customers also will enjoy a wider variety of rate plans, a more robust set of data services, wireline/wireless bundle discounts in AT&T's wireline service area, free access to 31,000 Wi-Fi hotspots for eligible subscribers, an increased ability to roam internationally, free mobile-to-mobile calling over a substantially expanded customer base, and rollover minutes.⁶ AT&T's experience, infrastructure, and supplier contacts will enable it to provide these benefits rapidly.⁷ On its own, by contrast, Allied could not build a 4G network that rivals its competitors' in speed and capacity, let alone as quickly.⁸

Second, the transaction will allow AT&T to enhance and supplement its network, which generally is limited in Allied's service area – along highways and other major roads and in small population centers. With the additional network facilities and spectrum in these areas, AT&T will be able to provide broader and deeper coverage for each company's customers, especially in rural regions.⁹ Following the network integration, Allied customers will receive the benefits of

⁴ See Public Interest Statement at 6-12.

⁵ *Id.* at 7-8.

⁶ *Id.* at 8-9.

⁷ *Id.* at 9.

⁸ *Id.* at 7. As explained in the Public Interest Statement, when Allied agreed to acquire the Alltel wireless divestiture assets from Verizon Wireless in 2009, Alltel's retail wireless business was built around providing voice service. *Id.* Since that time, the demand for mobile broadband services has exploded, and Allied has struggled to adjust. *Id.* Allied also has faced economic challenges resulting from serving the scattered geography where it operates. *Id.* at 21-22.

⁹ *Id.* at 10.

AT&T's nationwide 4G network; AT&T's customers will benefit from the expanded geographic network and broader 4G coverage; and customers of other GSM-based carriers will gain a more extensive roaming option in Allied's footprint. The integration of the networks and improvements and upgrades to Allied's network also will lead to more seamless service and a better customer experience, including fewer coverage gaps, fewer dropped calls, improved data speeds, better signal penetration of homes and other buildings, and enhanced feature performance.¹⁰

Third, customers will benefit from the substantial synergies produced by the transaction. The cost savings will result from, among other things, the reduction of general and administrative costs, reduced per-subscriber costs of acquiring customers, internalization of roaming, more efficient billing functions, the consolidation of cell sites, and lower network operating expenses.¹¹

III. THE TRANSACTION WILL NOT HARM COMPETITION

No party has put forth any legitimate reason for denying consumers these real and substantial improvements. In addition, as the Applicants make clear in their Public Interest Statement, competition will not be threatened in any of the areas covered by the transaction.¹² The transaction will not result in an aggregation of spectrum that exceeds the Commission's spectrum screen in any area except one county, where the screen would be exceeded by a mere four MHz.¹³ Moreover, at least four competitors will remain in almost every area after the

¹⁰ *Id.*

¹¹ *Id.* at 11-12.

¹² *Id.* at 12-18.

¹³ *Id.* at 14.

transaction is completed.¹⁴ Indeed, given Allied's declining competitive significance and AT&T's modest presence in Allied's territory, the combination of AT&T and Allied in these areas will create a stronger competitor.

Allied's competitive significance has been waning ever since it acquired the divested Alltel assets, and the substantial challenges it confronts will continue. Allied has lost nearly 30 percent of its subscriber base since mid-2010 due to the unique structural obstacles it faces.¹⁵ As explained in detail in the Public Interest Statement, Allied's footprint consists of several noncontiguous "island properties."¹⁶ Its scattered and rural footprint leads to a degraded customer experience, generates high customer churn, and creates inefficiencies and other burdens in advertising, field network and sales operations, and distribution.¹⁷ Moreover, because Allied's customers spend significantly more time off-network than customers of carriers with more contiguous footprints, Allied incurs unusually high roaming expenses, which have been exacerbated by exploding data usage.¹⁸ Finally, Allied faces a number of significant impediments to being able to deploy a high-quality 4G service, without which it will continue to struggle to remain competitive.¹⁹

Moreover, while Verizon is the clear leader in Allied's footprint, AT&T has only a modest presence in these areas, providing only minimal competition to Allied.²⁰ Among Allied

¹⁴ See Public Interest Statement at 18.

¹⁵ Decl. of William F. Kreisher, Senior Vice President, Corporate Development, Atlantic Tele-
Network, Inc. ¶ 17 (Feb. 5, 2013) ("Kreisher Decl.").

¹⁶ Public Interest Statement at 20; *see also* Kreisher Decl. ¶ 7 (Feb. 5, 2013).

¹⁷ Kreisher Decl. ¶¶ 8-10.

¹⁸ *Id.* ¶ 12.

¹⁹ *Id.* ¶¶ 13-14.

²⁰ See Public Interest Statement at 16-18.

customers who discontinue their service, 80 percent switch to Verizon.²¹ Fewer than ten percent switch to AT&T.²² As a result, Verizon is the primary rival driving Allied's competitive decisions,²³ and there is no basis for any concern about unilateral anticompetitive effects.²⁴

The combination of Allied's operations with AT&T's in these areas will result in a stronger competitor in each of the areas covered by the transaction. Although the transaction will remove Allied as a separate company, all four national carriers are present in nearly every market where Allied operates, and additional regional or local carriers are present in a number of them.²⁵ All of these carriers will remain competitors post-transaction. As the Commission has found, the presence of at least four remaining competing providers is a significant factor militating against a finding of competitive harm.²⁶

Against this compelling case of public interest benefits and continuing competition, the few Petitioners offer only irrelevant and erroneous arguments. Neither RTG nor Public Knowledge presents any facts to refute Applicants' showings. In its filing, for example, RTG argues that the deal would violate a 25 percent spectrum cap that RTG has proposed in a separate docket.²⁷ According to Public Knowledge, this transaction should be blocked simply because a

²¹ *Id.* at 16.

²² *Id.*

²³ Kreisher Decl. ¶ 19.

²⁴ *Id.*

²⁵ See Public Interest Statement at 18.

²⁶ See *Applications of AT&T Inc. & Centennial Commc'ns Corp. for Consent to Transfer Control of Licenses, Authorizations & Spectrum Leasing Arrangements*, Memorandum Opinion and Order, 24 FCC Rcd. 13,915, 13,948-49 ¶ 76 (2009) ("AT&T/Centennial Order"); *Applications of Cellco P'ship d/b/a Verizon Wireless & Atlantis Holdings LLC for Consent to Transfer Control of Licenses & Authorizations, & Spectrum Manager & De Facto Transfer Leasing Arrangements*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd. 17,444, 17,490-91 ¶ 98 (2008) ("Verizon/ALLTEL Order").

²⁷ RTG Comments at 1-2 (citing *Policies Regarding Mobile Spectrum Holdings*, WT Dkt No. 12-269, Comments of the Rural Telecommunications Group (filed Nov. 28, 2012)).

different provider, Verizon, was ordered to divest these CMAs in order to address potential competitive harms in a different transaction.²⁸ Public Knowledge overlooks the obvious fact that AT&T and Verizon occupy vastly different competitive positions in the relevant CMAs. In short, like RTG, Public Knowledge provides no support for a finding of any possible competitive harm.

The only other Petitioner, Blue Wireless, alleges that the transaction would harm competition in a single county, but even that contention is wrong. According to Blue, only three providers would remain post-transaction in Ashtabula (CMA 587, Ohio 3), which Blue claims is “dangerously close to a classic duopoly.”²⁹ Blue, however, ignores that *both* Sprint *and* T-Mobile have substantial coverage and competitive presence in that market. Far from “offering no service at all,” as Blue mistakenly claims,³⁰ T-Mobile provides broad coverage in Ohio 3,³¹ and T-Mobile’s website offers service plans to customers residing in multiple zip codes within this CMA.³² Sprint similarly has widespread coverage there, including the major population

²⁸ Public Knowledge Petition at 3.

²⁹ Blue Wireless Petition at 2.

³⁰ *Id.*

³¹ T-Mobile’s website coverage map for Ohio 3 (attached as Exhibit A) indicates that all of the coverage is “on T-Mobile’s network,” and none is offered via “service partner.” T-Mobile, Check Cell Phone Coverage and Signal Strength, <http://www.t-mobile.com/coverage/pcc.aspx/> (using zip code 44004 and zooming out to an area approximating Ohio 3) (last visited Apr. 9, 2013).

³² These areas include, at a minimum, 44004 (Ashtabula), 44010 (Austinburg), 44030 (Conneaut), 44032 (Dorset), 44047 (Jefferson), and 44048 (Kingsville). The screen shots from T-Mobile’s website in Exhibit B also show coverage maps for these zip codes as well as representative service offerings in Ashtabula. T-Mobile, Check Cell Phone Coverage and Signal Strength, <http://www.t-mobile.com/coverage/pcc.aspx/> (using zip codes 44004, 44010, 44030, 44032, 44047, and 44048) (last visited Apr. 9, 2013); T-Mobile, Individual Cell Phone Plans, <http://www.t-mobile.com/shop/plans/individual-plans.aspx> (after setting location to zip code 44004 (Ashtabula)) (last visited Apr. 9, 2013).

centers and highways, with roaming coverage of the rest.³³ In short, regardless of how the Commission analyzes this transaction, the conclusion remains the same: competition will remain strong because all four national providers will continue to compete in Ashtabula after the transaction is completed.

Blue is also wrong that the applicable spectrum screen should be reduced because AWS-1 and BRS spectrum is unavailable in Ashtabula.³⁴ Although Blue states it “has been unable to verify whether AWS-1 spectrum” is available in Ashtabula,³⁵ this fact is readily verified from the National Telecommunications & Information Administration’s December 1, 2012 report, which confirms that AWS spectrum across the entire state of Ohio has been cleared of federal users and is therefore “available.”³⁶ As for BRS, Clearwire has filed a construction notification with the Commission, which makes clear not only that BRS spectrum is “available” (the proper legal test)

³³ The Sprint coverage maps attached to Blue’s filing clearly show Sprint’s broad coverage in Ashtabula. See Blue Wireless Petition, Sprint Coverage App.; see also Sprint, Coverage Check, <http://coverage.sprint.com/IMPACT.jsp> (after setting location to Ashtabula, Ohio) (last visited Apr. 10, 2013).

Blue also attempts to diminish Sprint’s spectrum holdings by inaccurately asserting that Clearwire’s spectrum is not attributable to Sprint. Blue Wireless Petition at 5 n.3. Sprint, however, currently owns 50.45 percent, and possesses *de jure* control, of Clearwire. See *Softbank & Sprint File Amendment to Their Previously Filed Applications to Reflect Sprint’s Proposed Acquisition of De Facto Control of Clearwire*, Public Notice, 27 FCC Rcd. 16,056, 16,057 (IB 2012). Furthermore, for a number of years, “since the *Sprint Nextel-Clearwire Order*, the Commission has attributed Clearwire to Sprint Nextel because Sprint Nextel owns more than a 10 percent equity interest in Clearwire.” *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report & Analysis of Competitive Mkt. Conditions with Respect to Mobile Wireless, Including Commercial Mobile Servs.*, Dkt No. 11-186, Sixteenth Report, FCC 13-34 ¶ 130 n. 427 (rel. Mar. 21, 2013). This conclusion, moreover, is consistent with the Commission’s policy of considering “all equity ownership interests of ten percent or more to be attributable to those interest holders.” See *Policies Regarding Mobile Spectrum Holdings*, Notice of Proposed Rulemaking, 27 FCC Rcd. 11,710, 11,729 ¶ 41 (2012) (“*Mobile Spectrum Holdings NPRM*”).

³⁴ See Blue Wireless Petition at 3-4.

³⁵ *Id.* at 3.

³⁶ See <http://www.ntia.doc.gov/other-publication/2012/1710-1755-data> (providing coordinates for the locations of federal users’ transmitters, none of which is in Ohio).

in Ashtabula County, but also that it is “operating” (as Blue wrongly suggests Commission precedent requires, *see* Blue Wireless Petition at 4).³⁷

With the BRS bandplan transitioned to permit mobile broadband usage and AWS-1 available, the spectrum screen for the market is 151 MHz, as Applicants reported in the Public Interest Statement. AT&T will exceed this threshold as a result of this transaction in only one county – and then by only four MHz. Four nationwide carriers, each with substantial spectrum resources, will continue to serve Ohio 3 post-transaction, and competition will remain robust. Consequently, this transaction presents no credible spectrum concentration issues.

IV. THE TRANSACTION WILL NOT ADVERSELY LIMIT CDMA ROAMING OPPORTUNITIES IN OHIO 3 OR ELSEWHERE

Blue’s concern about the loss of a CDMA roaming partner in the Ohio 3 market³⁸ is likewise unwarranted. As a threshold matter, a detailed search of Allied/ATN records indicates that Blue does not have a roaming agreement with Allied today, has not sought one in the period ATN has owned Allied, and does not appear as a source of traffic in Allied’s roaming data.³⁹ Moreover, even if Blue did have an agreement for its customers to roam on Allied’s network in Ohio 3, its concern would be unjustified. Other CDMA roaming opportunities will continue to

³⁷ *See* ULS File No. 0004661991, Demonstration of Substantial Service at 1 (accepted Jun. 7, 2011) (stating, in the notification for BRS station B021, “Clearwire has deployed and is operating a fourth generation, or 4G, mobile wireless broadband network in Ashtabula, OH that includes the Geographic Service Area (‘GSA’) of the License as defined by the Commission’s rules.”).

³⁸ *See* Blue Wireless Petition at 2.

³⁹ Decl. of Angela M. Flom, Assistant Vice President, Roaming Operations and Strategy, Atlantic Tele-Network, Inc. ¶¶ 7-11 (Apr. 15, 2013). Blue’s description of the relationship is not a model of clarity. *Compare* Blue Wireless Petition at 1 (“ATN, through its legacy roaming agreement with ALLTEL, is a roaming partner of Blue Wireless.”) *with id.* at 2 (describing Allied as a “potential CDMA roaming partner”). Although Applicants have tried to discern and address Blue’s point, Applicants are unsure whether Blue claims to have a roaming agreement with or receive roaming services from Allied or whether Blue merely speculates that it might want to have that option someday.

be available after this transaction in every affected CMA, including in Ohio 3. Both Verizon Wireless and Sprint will continue as potential CDMA roaming alternatives in 24 of the 26 affected CMAs – including in Ohio 3 – with Verizon Wireless providing service in the other two CMAs.⁴⁰ Additional CDMA carriers operate in many of these license areas,⁴¹ while others hold spectrum but currently do not provide service.⁴² These carriers will have strong incentives to enter into reciprocal roaming agreements, expand coverage, or fill in coverage gaps to meet consumer demand for nationwide coverage. Moreover, under the terms of its agreement with

⁴⁰ See Public Interest Statement, App. B. In addition, Syringa Wireless uses a CDMA network in CMA 390 (Idaho 3 - Lemhi), one of the two CMAs where Sprint does not provide service. See CDG, Worldwide, <http://www.cdg.org/worldwide/index.asp> (last visited Apr. 7, 2013). Syringa Wireless's presence was confirmed by seeing whether a customer in a zip code within the CMA could order service via its website.

⁴¹ Revol Wireless operates using CDMA in CMAs 586 (Ohio 2 - Sandusky) and 590 (Ohio 6 - Morrow). See Revol Wireless, Legal Notices, <http://www.revol.com/legal-notice/net-neutrality> (last visited Apr. 7, 2013). U.S. Cellular provides CDMA service in CMA 566 (North Carolina 2 - Yancey). See U.S. Cellular, Legal, <http://www.uscellular.com/press-room/resource-library.html> (last visited Apr. 7, 2013). Inland Cellular operates on CDMA in CMA 389 (Idaho 2 - Idaho). See Inland Cellular, Open Internet Policy, <http://www.inlandcellular.com/open-internet-policy/> (last visited Apr. 7, 2013). Carolina West has a CDMA network in CMAs 166 (Hickory, NC) and 566 (North Carolina 2 - Yancey), and Syringa Wireless uses a CDMA network in CMA 390 (Idaho 3 - Lemhi). See CDG, Worldwide, <http://www.cdg.org/worldwide/index.asp> (last visited Apr. 7, 2013). Leap Wireless (Cricket) provides service on its CDMA network in CMAs 378 (Georgia 8 - Warren), 382 (Georgia 12 - Liberty), and 389 (Idaho 2 - Idaho). See Leap Wireless, Annual Report, Form 10-K at 5 (Feb. 25, 2013). Each carrier's presence was confirmed by seeing whether a customer in a zip code within the CMA could order service via the carrier's website.

⁴² Leap holds spectrum in at least some of CMA 227 (Anderson, SC), CMA 376 (Georgia 6 - Spalding), CMA 377 (Georgia 7 - Hancock), CMA 379 (Georgia 9 - Marion), CMA 380 (Georgia 10 - Bleckley), CMA 390 (Idaho 3 - Lemhi), CMA 566 (North Carolina 2 - Yancey), CMA 569 (North Carolina 5 - Anson), CMA 625 (South Carolina 1 - Oconee), CMA 626 (South Carolina 2 - Laurens), and CMA 627 (South Carolina 3 - Cherokee). See Public Interest Statement, App. B. U.S. Cellular holds spectrum in at least some of CMA 166 (Hickory, NC), CMA 379 (Georgia 9 - Marion), CMA 401 (Illinois 8 - Washington), CMA 402 (Illinois 9 - Clay), and CMA 569 (North Carolina 5 - Anson). See *id.* Cleartalk holds spectrum in at least some of CMA 227 (Anderson, SC), CMA 389 (Idaho 2 - Idaho), CMA 390 (Idaho 3 - Lemhi), CMA 569 (North Carolina 5 - Anson), CMA 625 (South Carolina 1 - Oconee), CMA 626 (South Carolina 2 - Laurens), CMA 627 (South Carolina 3 - Cherokee), and CMA 631 (South Carolina 7 - Calhoun). See *id.* C-Spire holds spectrum in at least some of CMA 376 (Georgia 6 - Spalding) and CMA 379 (Georgia 9 - Marion). See *id.* Snake River PCS holds spectrum in at least some of CMA 389 (Idaho 2 - Idaho) and CMA 390 (Idaho 3 - Lemhi). See *id.* Revol holds spectrum in at least some of CMA 158 (Lima, Ohio), CMA 231 (Mansfield, Ohio), and CMA 589 (Ohio 5 - Hancock). See *id.*

Allied, AT&T is assuming Allied's contractual obligations to maintain a CDMA network to provide roaming services in a number of markets (including Ohio 3) until April 2015, a period that is longer than the 18 months the Commission has found to be sufficient for carriers to "implement alternative[]" roaming solutions.⁴³ Thus, the transaction actually will *enhance* overall roaming opportunities, with AT&T expanding the availability of 3G and 4G GSM-based coverage for customers of other GSM-based carriers.

In any case, the focus of the Commission's review with respect to roaming is on whether it will "cause competitive harm due to a reduction of the number of competitors in general."⁴⁴ As shown above and in the Public Interest Statement, competition will remain strong in all affected areas after the proposed transaction. The Commission's roaming rule further protects against unreasonable roaming terms, and any affected carrier could readily file a complaint and seek expedited review if it believes that rule has been violated.⁴⁵ Blue's concerns, therefore, have no basis.

⁴³ *AT&T/Centennial Order*, 24 FCC Rcd. at 13,971 ¶ 138.

⁴⁴ *Applications of AT&T Inc. & Dobson Commc'ns Corp. for Consent to Transfer Control of Licenses & Authorizations*, Memorandum Opinion and Order, 22 FCC Rcd. 20,295, 20,327 ¶¶ 65-66 (2007); *see, e.g., Sprint Nextel Corp. & Clearwire Corp. Applications for Consent to Transfer Control of Licenses, Leases, & Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd. 17,570, 17,606 ¶ 91 (2008) ("*Sprint Nextel/Clearwire Order*"); *Reexamination of Roaming Obligations of Commercial Mobile Radio Serv. Providers*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd. 15,817, 15,822 ¶ 13 (2007).

⁴⁵ *See* 47 C.F.R. § 20.12. To the extent Blue implicitly seeks the Commission to require AT&T to maintain Allied's CDMA network for roaming, "it is the Commission's long-standing policy not to dictate licensees' technology choices." *Applications of Cellco P'ship d/b/a Verizon Wireless & Rural Cellular Corp. for Consent to Transfer Control of Licenses, Authorizations, & Spectrum Manager Leases & Petitions for Declaratory Ruling That the Transaction Is Consistent with Section 310(b)(4) of the Commc'ns Act*, Memorandum Opinion and Order, 23 FCC Rcd. 12,463, 12,513 ¶ 114 (2008). As shown above, there is no basis to depart from this policy here.

V. THE COMMISSION SHOULD REJECT OPPONENTS' EFFORTS TO RAISE NON-TRANSACTION-SPECIFIC ISSUES IN THIS PROCEEDING

Two Petitioners seek to address matters in this proceeding that have no specific connection to this transaction and, thus, are not appropriate to consider here. RTG asks the Commission to impose a new spectrum cap and order divestitures or leasing of spectrum in markets where AT&T would exceed the cap it proposes.⁴⁶ Public Knowledge requests that the Commission dismiss the Applications pending the adoption of a new spectrum aggregation policy under which the Commission would review re-filed Applications.⁴⁷ Both Petitioners also seek conditions related to data roaming, interoperability, handset exclusivity, early termination fees ("ETFs"), and special access and backhaul.⁴⁸ Yet, as discussed above, they point to no transaction-specific harms that their proposed conditions purportedly would address. Without a grounding in the facts of the transaction, Commission precedent precludes consideration of the proposals, especially when they are already the subjects of separate, industry-wide proceedings.⁴⁹

RTG and Public Knowledge are participating in the Commission's proceeding regarding mobile spectrum holdings,⁵⁰ where these arguments at least are pertinent. Indeed, RTG freely

⁴⁶ RTG Comments at 7-8.

⁴⁷ Public Knowledge Petition at 1-2.

⁴⁸ *Id.* at 4-6; RTG Comments at 7-8.

⁴⁹ *See, e.g., AT&T/Centennial Order*, 24 FCC Rcd. at 13,969 ¶ 133 (stating that general concerns regarding roaming would be more appropriately addressed in the relevant proceeding); *Applications of Craig O. McCaw & Am. Tel. & Tel. Co. for Consent to the Transfer of Control of McCaw Cellular Commc'ns, Inc. & Its Subsidiaries*, Memorandum Opinion and Order, 9 FCC Rcd. 5,836, 5,904 ¶ 123 (1994), *aff'd*, *SBC Commc'ns Inc. v. FCC*, 56 F.3d 1484 (D.C. Cir. 1995).

⁵⁰ *See Mobile Spectrum Holdings NPRM*; *see also, e.g., Policies Regarding Mobile Spectrum Holdings*, WT Dkt No. 12-269, Comments of the Rural Telecommunications Group (filed Nov. 28, 2012); *id.*, Reply Comments of the Rural Telecommunications Group (filed Jan. 7, 2013); *id.*, Comments of Public Knowledge (filed Nov. 28, 2012); *id.*, Reply Comments of Public Knowledge (filed Jan. 7, 2013).

acknowledges that it has rehashed here the very same proposals that it made there.⁵¹ The Commission has made clear that, while the Mobile Spectrum Holdings proceeding is pending, “[it] will continue to apply its current case-by-case approach to evaluate mobile spectrum holdings.”⁵² Since that time, the Commission has not departed from this stance,⁵³ and Petitioners provide no basis for the Commission suddenly to reverse course and do so here.⁵⁴

For similar reasons, the Commission should not consider Petitioners’ requests for a laundry list of conditions. Here too, Petitioners can point to no harms that would result from this transaction to support their proposed conditions. Rather, the alleged harms are or were the subject of industry-wide proceedings.⁵⁵ The Commission repeatedly has emphasized that it “will

⁵¹ See RTG Comments at 1-2.

⁵² *Mobile Spectrum Holdings NPRM*, 27 FCC Rcd. at 11,718 ¶ 16 n.59.

⁵³ See, e.g., *Applications of Deutsche Telekom AG, T-Mobile USA, Inc., & MetroPCS Commc’ns, Inc. for Consent to Transfer of Control of Licenses & Authorizations*, WT Dkt No. 12-301, Memorandum Opinion and Order and Declaratory Ruling, DA 13-384, ¶ 35 (WTB IB rel. Mar. 12, 2013); *Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, Comcast Corp., Horizon Wi-Com, LLC, NextWave Wireless, Inc. & San Diego Gas & Elec. Co. for Consent to Assign & Transfer Licenses*, Memorandum Opinion and Order, 27 FCC Rcd. 16,459, 16,467 ¶ 21 n.62, 16,470 ¶ 30 (2012).

⁵⁴ Public Knowledge claims that, if the Commission does not dismiss the Applications pending the outcome of the Mobile Spectrum Holdings proceeding, it will have “no reliable objective basis by which to judge them.” Public Knowledge Petition at 1. Aside from dismissing as arbitrary the case-by-case analysis the Commission has employed over the years in its transaction decisions, this position incorrectly suggests that the Commission may not adjudicate a transaction or other matter using its current policies if those policies are being reviewed in a pending rulemaking.

⁵⁵ See *Special Access for Price Cap Local Exch. Carriers*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd. 16,318 (2012); *Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers & Handset Mfrs.*, Order, 27 FCC Rcd. 5294 (WTB 2012); *Promoting Interoperability in the 700 MHz Commercial Spectrum*, Notice of Proposed Rulemaking, 27 FCC Rcd. 3521 (2012); *Reexamination of Roaming Obligations of Commercial Mobile Radio Serv. Providers & Other Providers of Mobile Data Servs.*, Second Report and Order, 26 FCC Rcd. 5411 (2011), *aff’d sub nom. Cellco P’ship v. FCC*, 700 F.3d 534 (D.C. Cir. 2012); *Consumer Info. & Disclosure, Truth-in-Billing & Billing Format, IP-Enabled Servs.*, Notice of Inquiry, 24 FCC Rcd. 11,380 (2009).

The Commission regularly adjudicates transactions and other matters that implicate the subject of a pending rulemaking. See, e.g., *Applications of AT&T Inc. & Cellco P’ship d/b/a Verizon Wireless for Consent to Assign or Transfer Control of Licenses & Authorizations &*

Footnote continued on next page

not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction”⁵⁶ and has declined to impose data roaming, device interoperability, handset exclusivity, ETF, and special access and backhaul conditions in past transactions for this reason.⁵⁷ As with spectrum aggregation policies, Petitioners offer no justification for the Commission to break from its precedent and consider these proposed conditions here.

Footnote continued from previous page

Modify a Spectrum Leasing Arrangement, Memorandum Opinion and Order, 25 FCC Rcd. 8,704, 8,705 ¶ 1, 8,745 ¶ 93 (2010) (approving assignment/transfer of licenses from Verizon Wireless to AT&T while data roaming proceeding was pending, despite alleged CDMA roaming concerns); *Verizon/ALLTEL Order*, 23 FCC Rcd. at 17,523 ¶ 176, 17,525 ¶ 180 (approving transfer applications despite request to hold them in abeyance until resolution of the roaming proceeding and stating that the Commission “will address the concerns about roaming raised in the record of this transaction in other, more appropriate, proceedings Any decisions reached or rules adopted in either of those roaming proceedings will apply with equal force to Verizon Wireless.”).

⁵⁶ *Verizon/ALLTEL Order*, 23 FCC Rcd. at 17,463 ¶ 29. See also, e.g., *AT&T/Centennial Order*, 24 FCC Rcd. at 13,929 ¶ 30; *Sprint Nextel/Clearwire Order*, 23 FCC Rcd. at 17,582 ¶ 22.

⁵⁷ See, e.g., *Applications of AT&T Mobility Spectrum LLC, Triad 700, LLC, CenturyTel Broadband Wireless, LLC, 700 MHz, LLC, Cavalier Wireless, LLC, Ponderosa Tel. Co., David L. Miller, ComSouth Tellular, Inc., Farmers Tel. Co., Inc. & McBride Spectrum Partners, LLC for Consent to Assign Licenses*, Memorandum Opinion and Order, 27 FCC Rcd. 15,831, 15,833 ¶¶ 5, 7-8 (WTB 2012) (declining to impose interoperability and data roaming conditions); *Applications of Cellco P’ship d/b/a Verizon Wireless & SpectrumCo LLC & Cox TMI, LLC for Consent to Assign AWS-1 Licenses; Applications of Verizon Wireless & Leap for Consent to Exchange Lower 700 MHz, AWS-1, & PCS Licenses; Applications of T-Mobile License LLC & Cellco P’ship d/b/a Verizon Wireless for Consent to Assign Licenses*, Memorandum Opinion and Order and Declaratory Ruling, 27 FCC Rcd. 10,698, 10,732 ¶ 89 (2012) (declining to impose interoperability and handset exclusivity conditions); *Application of AT&T Inc. & Qualcomm Inc. for Consent to Assign Licenses & Authorizations*, Order, 26 FCC Rcd. 17,589, 17,620-22 ¶¶ 71, 77, 79 (2011) (declining to impose conditions relating to interoperability, ETFs, handset exclusivity, and special access and backhaul).

VI. CONCLUSION

For the reasons set forth above and in the Public Interest Statement, the Commission should dismiss or deny the filings made in opposition to the proposed transaction and promptly grant the Applications without conditions.

Respectfully submitted,

AT&T Inc.

Atlantic Tele-Network, Inc.

By: /s/ Michael P. Goggin

By: /s/ Douglas J. Minster

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of April, 2013, I caused true and correct copies of the foregoing Joint Opposition to Petitions to Deny and Reply to Comments of AT&T Inc. and Atlantic Tele-Network, Inc. to be served by first-class mail, postage prepaid, or electronic mail upon:

Ms. Tanya Sullivan, Executive Director
Mr. James Mardis, Director of Industry Affairs
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/s/ Stefanie Alfonso-Frank
Stefanie Alfonso-Frank

EXHIBIT A

Personal Coverage Check

We've got you covered where you live, work, and play.

Street:

City:

State:

Zip:

Search



[Prepaid and FlexPay coverage map](#)

[Learn more about T-Mobile's expanded coverage](#)

3G/4G smartphone

2G/voice

2G/voice signal strength* ?

See your voice coverage on T-Mobile's network.

Excellent

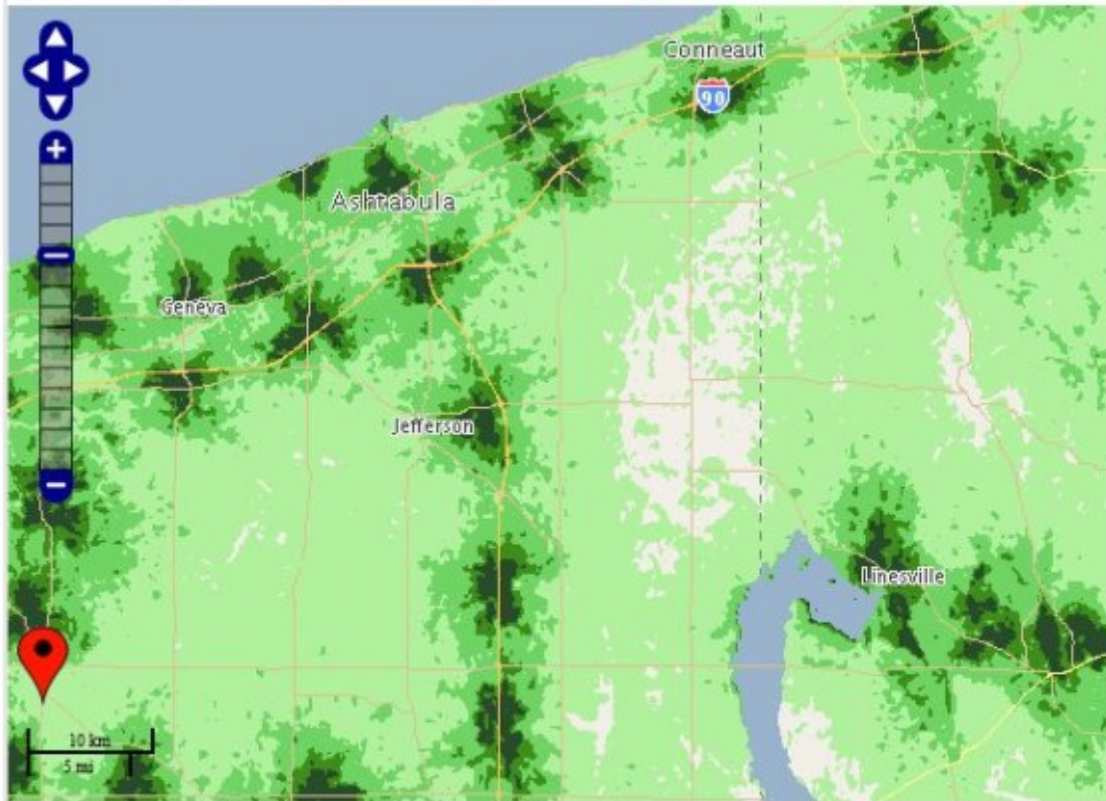
Very Strong

Good

Satisfactory

Service Partner

No Service



Address location New cell site

EXHIBIT B

Street: City: State: Zip: [Prepaid and FlexPay coverage map](#)[Learn more about T-Mobile's expanded coverage](#)

3G/4G smartphone

2G/voice

2G/voice signal strength*

See your voice coverage on T-Mobile's network.

Excellent

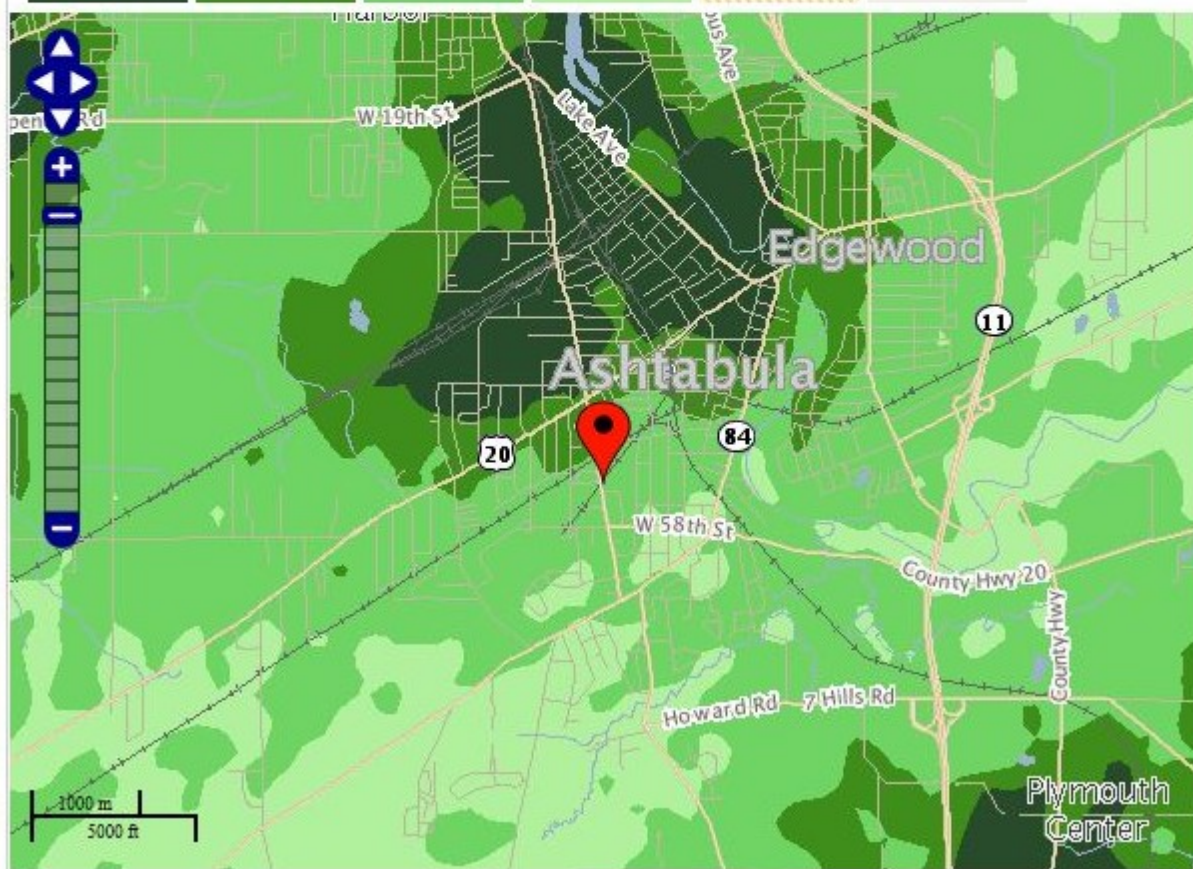
Very Strong

Good

Satisfactory

Service Partner

No Service



📍 Street:

City:

State:

Zip:

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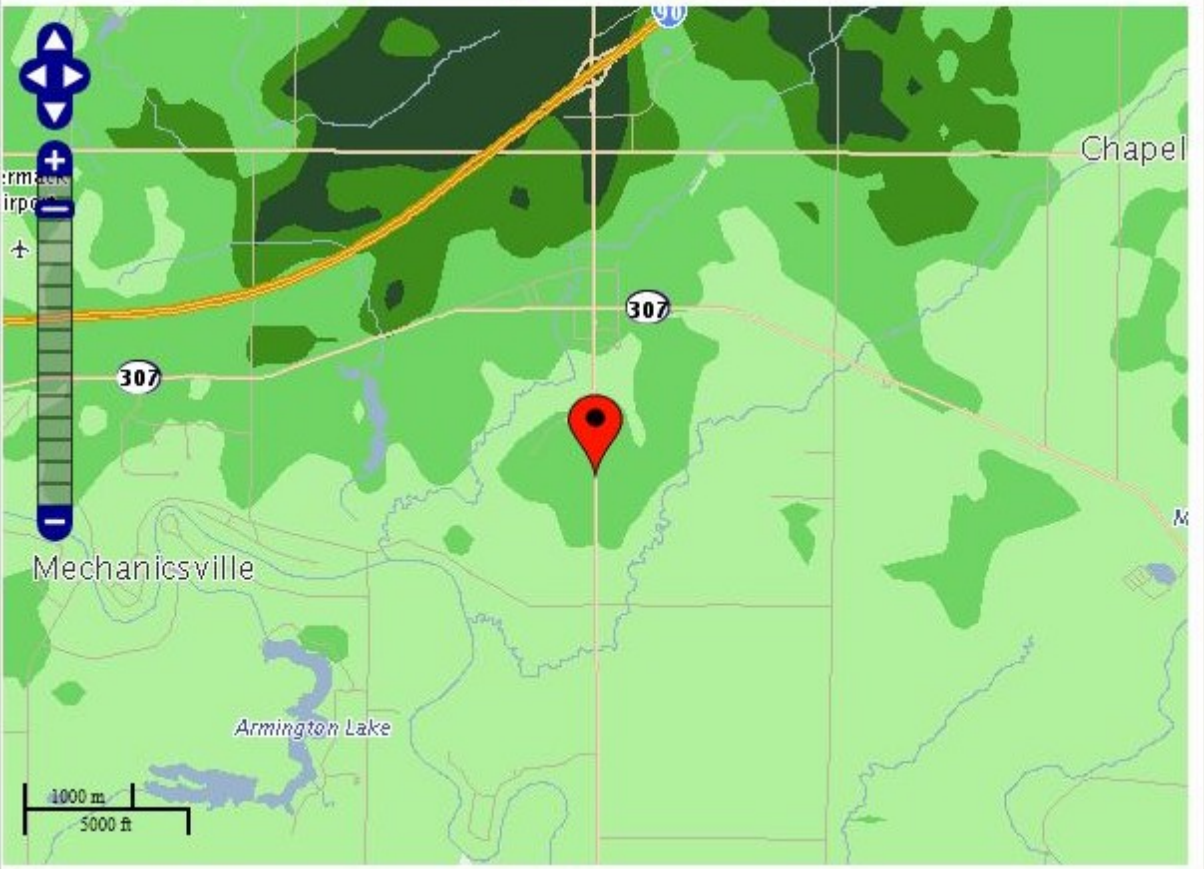
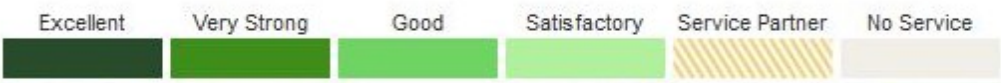
[Prepaid and FlexPay coverage map](#) ▶
[Learn more about T-Mobile's expanded coverage](#) ▶

3G/4G smartphone

2G/voice

2G/voice signal strength* ?

See your voice coverage on T-Mobile's network.



Street:

City:

State:

Zip:



[Prepaid and FlexPay coverage map](#)

[Learn more about T-Mobile's expanded coverage](#)

3G/4G smartphone

2G/voice

2G/voice signal strength*

See your voice coverage on T-Mobile's network.

Excellent

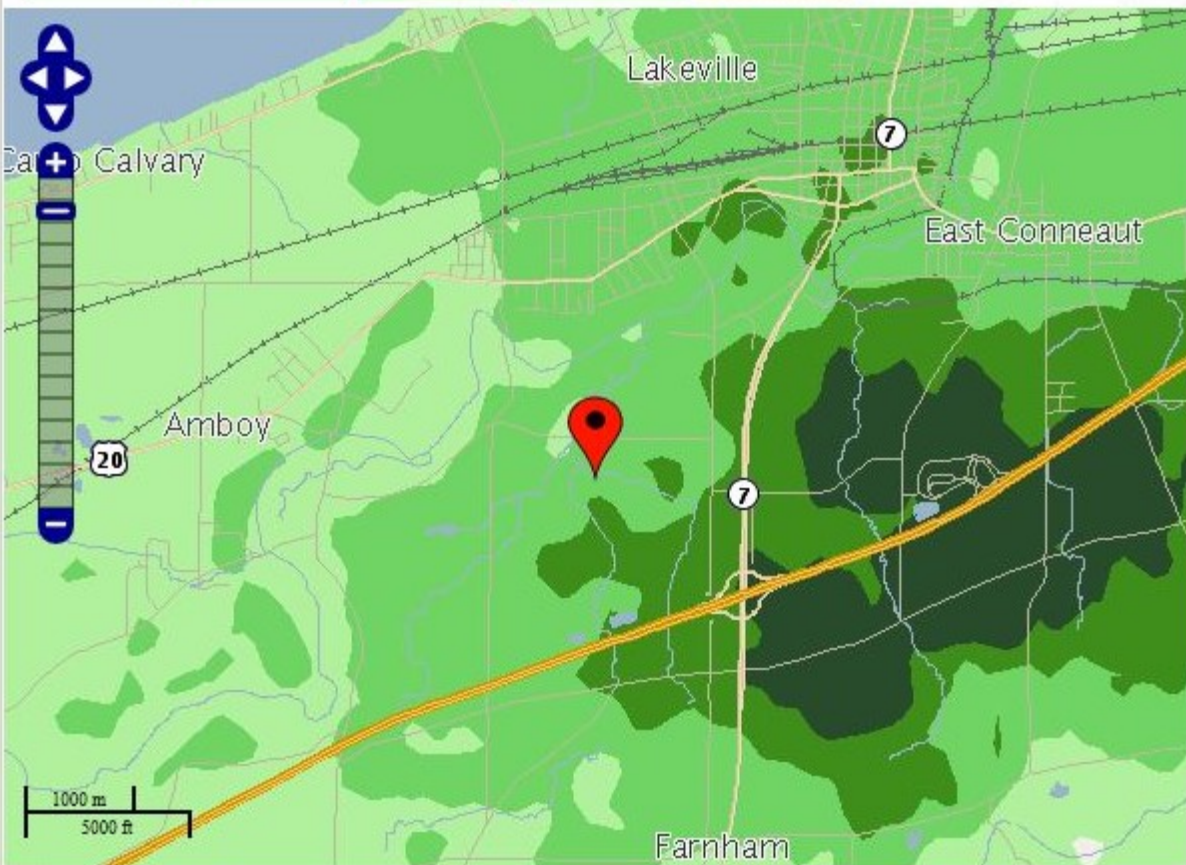
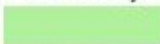
Very Strong

Good

Satisfactory

Service Partner

No Service



Street: City: State: Zip: 44032 

[Prepaid and FlexPay coverage map](#) ▶

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3G/4G smartphone

2G/voice

2G/voice signal strength*

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Excellent

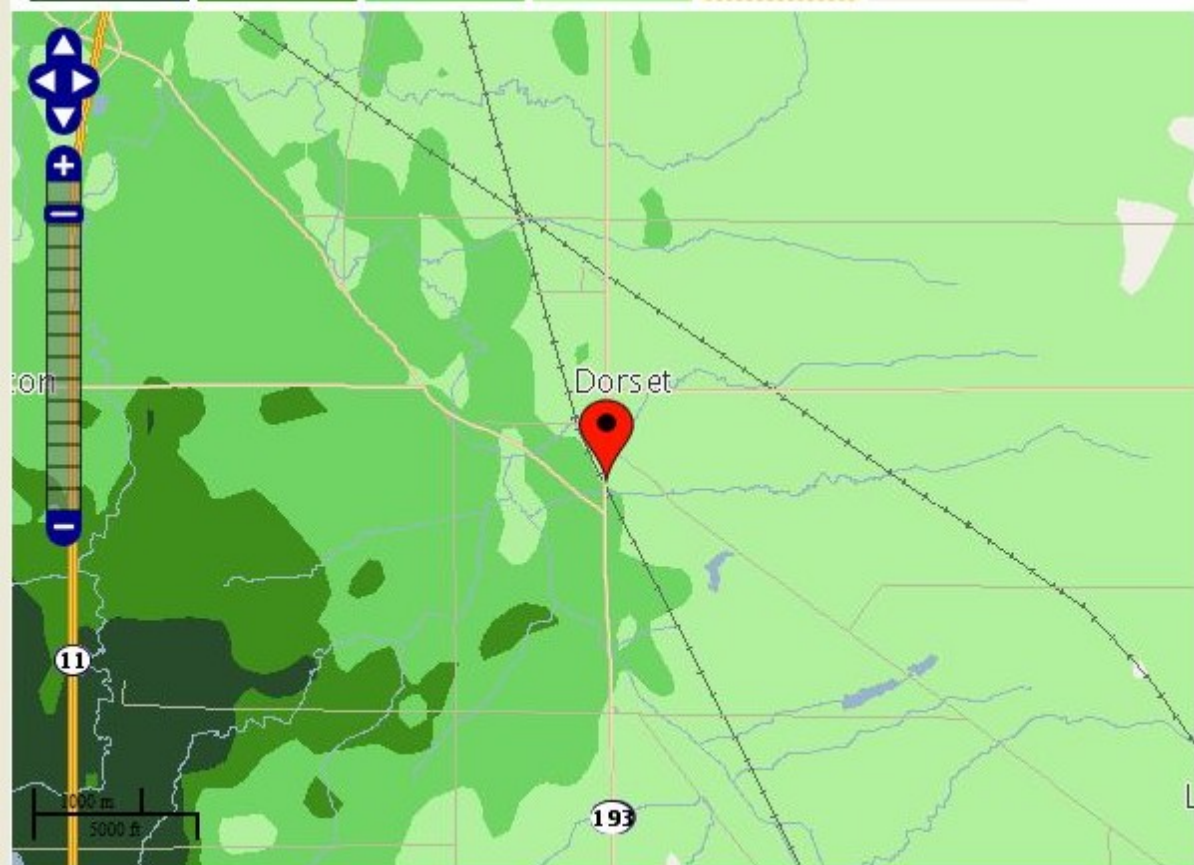
Very Strong

Good

Satisfactory

Service Partner

No Service



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State:

Zip:

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[Prepaid and FlexPay coverage map](#)

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3G/4G smartphone

2G/voice

2G/voice signal strength*

See your voice coverage on T-Mobile's network.

Excellent

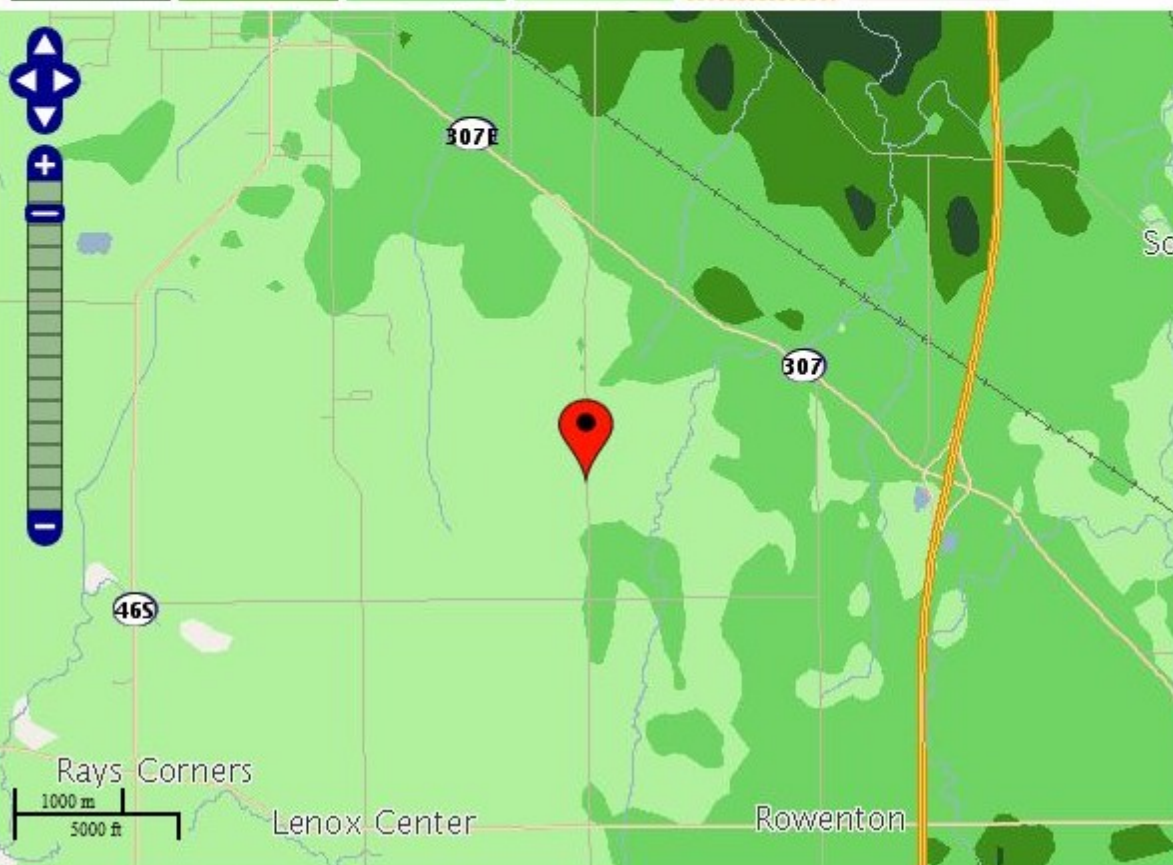
Very Strong

Good

Satisfactory

Service Partner

No Service



Street:

City:

State:

Zip:



[Prepaid and FlexPay coverage map](#)

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3G/4G smartphone

2G/voice

2G/voice signal strength*

See your voice coverage on T-Mobile's network.

Excellent

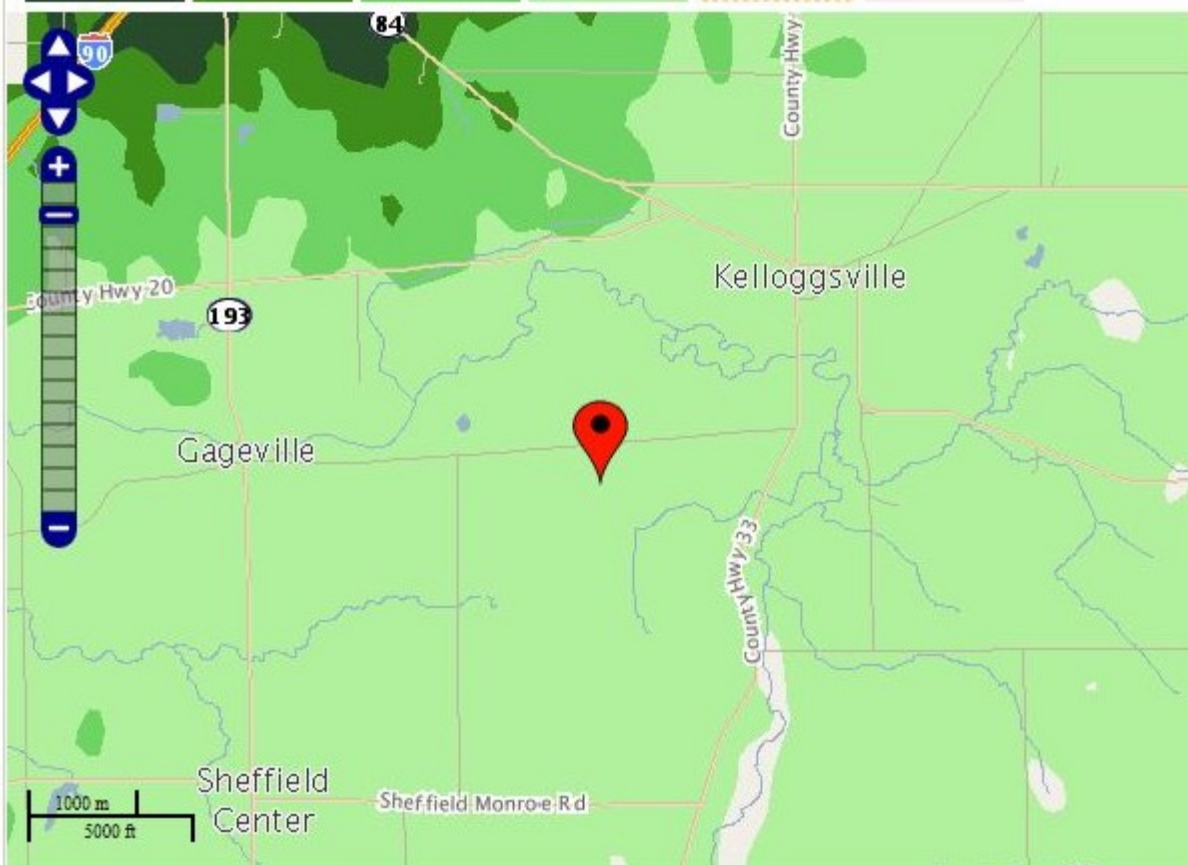
Very Strong

Good

Satisfactory

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Choose number of lines:

Each device gets its own line.

Individual Plan

Family Plans

1 Line

2 Lines

3 Lines

4 Lines

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Simple Choice Plan: Unlimited Talk + Text + Web

Choose your data options

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2 GB

UNLIMITED
NATIONWIDE 4G

Adds Unlimited Nationwide 4G data on T-Mobile's network. Includes up to 500 MB of Smartphone Mobile HotSpot (SMH) service. Additional SMH features available for an extra charge.

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PER MONTH FOR 1 PHONE

\$70.00

[View/edit cart](#)

Your shopping cart

Voice 1

- ✓ **Plan**
Unlimited Talk + Text
- ✓ **Services**
Unlimited Nationwide 4G
- ➔ **Phone**
Select a phone
- 4 **Accessories**
Add Accessories

[Save cart](#)

[FAQ](#)

Personal

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Español

Store Locator

Ashtabula, OH

MY T-MOBILE

Sign up

Log in

T-Mobile

search

GO

FREE SHIPPING plus

NO ACTIVATION FEES

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Phones

Internet Devices

Plans

Accessories

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REVIEW MY CART

FREE SHIPPING on all phones

Please note: Prices on T-Mobile.com may be for online purchases only. You can print this page as a reminder, or call us at 1-877-334-7151 to make purchases (telephone sales prices can vary from those on T-Mobile.com).

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CHECK OUT

YOUR PACKAGES

You are viewing pricing options for:

Monthly payments

One payment

VOICE PACKAGES

Learn more about pricing options >

PACKAGE 1: Voice

Add another package like this >

Remove this package

ITEM NAME	DUE MONTHLY	DUE TODAY
<div>Plan:</div> <div> <div>UNLIMITED TALK + TEXT</div> <div>Change ></div> <div>More details</div> </div>	\$50.00/month	
<div>Device:</div> <div> <div>Change ></div> <div>Apple® iPhone 5 - Black - 16GB</div> <div> <div>4-inch Retina display</div> <div>Ultrafast wireless</div> <div>A6 chip</div> <div>More details</div> <div>Want to keep the number you already have?</div> <div>Check to see if you can transfer it to T-Mobile.</div> </div> </div> <div> <div>Down Payment</div> <div>\$99.99</div> <div>+ \$20.00 per month for 24 months*</div> <div>Down payment</div> <div>\$99.99</div> <div> <div>Qualifying rate plan required. SRP \$579.99. 0% APR. On Approved Credit for well-qualified buyer.</div> </div> </div>	\$20.00/mo	\$99.99
<div>Services:</div> <div> <div>Unlimited Nationwide 4G</div> <div>Remove ></div> <div>Add more services ></div> </div>	\$20.00/mo	
<div>Accessories:</div> <div> <div>You have not selected any accessories for this phone or device.</div> <div>Add accessories ></div> </div>		
<div>Fees:</div> <div> <div>Activation fee</div> <div>This one-time charge will appear on your first monthly billing statement.</div> <div> <div>\$35.00</div> <div>Waived</div> </div> <div>OFFER: Waived \$35 activation fee with purchase of Unlimited Talk + Text</div> </div>		
PACKAGE 1 TOTAL		

EXHIBIT C

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
AT&T Inc. and Atlantic Tele-Network, Inc. Seek)	
FCC Consent to the Transfer of Control and)	WT Docket No. 13-54
Assignment of Licenses, Spectrum Leasing)	
Authorizations, and an International Section 214)	
Authorization)	

DECLARATION OF ANGELA M. FLOM

I, Angela M. Flom, hereby declare the following:

1. I am Assistant Vice President, Roaming Operations and Strategy, for Atlantic Tele-Network, Inc. ("ATN"), a position I have held since 2012, and I have also served as Vice President, Roaming Billing and Operations of ATN's wholesale roaming operations operated through its Commnet subsidiary since 2009. In these capacities, I am responsible for, among other things, managing ATN's inter-carrier roaming arrangements.
2. ATN is a telecommunications company headquartered in Beverly, Massachusetts. ATN provides telecommunications services to rural, niche, and other underserved markets in the United States, Bermuda and the Caribbean through its operating subsidiaries. These services include both wireless and wireline connectivity for residential and business customers, a range of mobile wireless solutions, local exchange services, fiber optic services and broadband Internet services.
3. In June 2009, ATN entered an agreement with Verizon Wireless ("Verizon") to acquire wireless licenses and authorizations that Verizon Wireless was required to divest as a result of its acquisition of ALLTEL Corporation. The Federal Communications Commission

approved the transaction between Verizon and ATN (“Verizon Transaction”) in April 2010, and ATN acquired the assets through its wholly owned subsidiary Allied Wireless Communications Corporation (“AWCC”). The assets included a license permitting AWCC to continue use of the Alltel brand name and service marks in the relevant markets.

4. AWCC, working in conjunction with several affiliates¹ (collectively with AWCC, “Allied”), now provides retail wireless voice and data services in the United States under the “Alltel” brand name. Allied offers retail wireless services in rural areas of six states to approximately 620,000 customers, including 35,000 subscribers from an unconsolidated partnership, with a network footprint of approximately 4.6 million people.

5. ATN, along with AT&T Inc. (“AT&T”) and AWCC, is currently seeking FCC approval of a transaction in which AWCC would transfer its retail operations and associated assets to a wholly owned, indirect subsidiary of AT&T (“Transaction”).

6. On April 4, 2013, Buffalo-Lake Erie Wireless Systems Co., L.L.C. (“Blue Wireless”) filed a Petition to Deny at the FCC opposing the Transaction. That Petition states, among other things, that “ATN, through its legacy roaming agreement with ALLTEL, is a roaming partner of Blue Wireless.”² I was asked to investigate and determine whether this statement is true.

7. Based on my investigation, it is not. Blue Wireless does not have a roaming agreement with any ATN entity today, has not sought one in the period ATN has owned Allied, and does not appear as a source of traffic in any ATN entity’s roaming data.

¹ These affiliates are Georgia RSA #8 Partnership, Ohio RSA #3 Limited Partnership, Ohio RSA 2 Limited Partnership, Ohio RSA 5 Limited Partnership, and Ohio RSA 6 Limited Partnership.

² Petition to Deny of Blue Wireless at 1.

8. To reach this conclusion, I and other ATN personnel under my supervision checked multiple sources. First, we checked our corporate records to determine whether these records include a roaming agreement with Blue Wireless. We also checked the names of all the roaming agreements in our corporate records to determine if any counterparty to any of those agreements could be Blue Wireless using another name. The result of this search confirmed that no ATN entity has such an agreement.

9. Second, we examined the corporate documents from the Verizon Transaction, which was an asset purchase, to determine whether the roaming agreement to which Blue Wireless refers was transferred to Allied in that transaction. That examination confirmed that the roaming agreement was not a transferred asset in the Verizon Transaction.

10. Third, we examined our billing records to look for any payments (or payables or receivables) to or from Blue Wireless or an entity with any similar name. There have been no such payments.

11. Finally, we searched the Syniverse and AAA databases (which track roaming traffic) for all roaming traffic between all ATN entities and Blue Wireless or entities with similar names. The search revealed no such traffic being exchanged between such entities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15, 2013.

By: Angela M Flom

Angela M. Flom